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Brian McNeil
Executive Director

ARIZONA CORPORATION COMMISSION

2007 APR 17 P 3:56

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AZ CORP COMMISSION
DOCUMENT CONTROL

April 17, 2007

Chairman Gleason
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Re: Reconsideration of Decision No. 68858,
Arizona-American Water Company, Paradise Valley Water District,
Docket Nos. W-01303A-05-0405 and W-01303A-05-0910

Dear Chairman Gleason:

The Town of Paradise Valley's decision to request fire-flow improvements from the three water utility service providers operating in the Town, Arizona-American Water Company, Berneil Water Company and the City of Phoenix, was the result of a collaborative, grass-roots process. The plan to improve the Town's fire protection system was the culmination of months of concerted efforts between the elected officials and staff of the Town, the people of Paradise Valley, business representatives, and Arizona-American Water Company.

The Town asserted in proceedings before the Commission that it cannot legally fund water system improvements for a private utility. The Residential Utility Consumer Office ("RUCO") contended that neither A.R.S. § 9-514 nor the Gift Clause in the Arizona Constitution prohibit the Town from doing so. Our Staff pointed out that if the Town is legally prohibited from funding the fire-flow investments, then allowing rate recovery may be the only option available to fund the additional infrastructure needed to comply with the Town's fire-flow ordinance. This matter was vigorously debated. Based on the evidence, the Commission determined that the fire-flow improvements planned by the Company are necessary to ensure the public health and safety. These improvements have been specifically identified and publicly endorsed by the Town.

At the July 2006 Open Meeting where the Commission issued its Decision in this case, I asked the Town Attorney that if the citizens of Paradise Valley called the Town to complain about the surcharges, then would they be told that they were passed with his recommendation. The Town Attorney responded by saying yes, he would say that he had recommended the surcharges. He went on to say that while the town council had not officially voted on the rate increase, based on the amount of effort that the council and the water committee had put into this fire-flow improvement plan over the last four years, the council's policy directive was quite clearly in support. The Town Attorney further opined that the council would be willing to take a formal vote in support of the rate increase, but that it had not because the council did not think it was necessary.

Chairman Gleason
April 17, 2007
Page 2

I have attached the March 24, 2006, letter from the Town Manager, Thomas M. Martinsen. In this letter, Mr. Martinsen states, "From the Town's perspective each of the three water utilities serving our residents must utilize whatever mechanisms they have to fund improvements which are necessary for public safety." This letter was docketed the same day the Town withdrew its intervention request.

As Commissioners we are required to issue decisions based on the record before us. The record in this case supported the imposition of the High Block and Public Safety Surcharges in order to fund the fire-flow improvements required by the Town. These surcharges also were intended to encourage conservation by sending appropriate price signals to the heaviest users. This is an area with historical high usage. For example, this system has a three-tiered inverted block rate design for residential customers where the second tier starts at 25,001 gallons/month and the third tier starts at 80,001 gallons/month. For most other systems with a three-tiered inverted block rate design, the second tier begins between 3,001-5,001 gallons/month and the third tier begins between 10,001-15,001 gallons/month. These tiers are set based on the median and average customer usage.

Despite the failure of your amendment which would have prevented the Public Safety Surcharge from being imposed, you voted for the Order, not against it. I hope that this letter has helped to explain the Commission's reasoning in passing Decision No. 68858.

Sincerely,

A handwritten signature in cursive script, reading "William A. Mundell".

William A. Mundell, Commissioner
Arizona Corporation Commission

Enclosure

cc: Commissioner Hatch-Miller
Commissioner Mayes
Commissioner Pierce

ORIGINAL



TOWN OF

PARADISE VALLEY



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March 24, 2006

W-01303A-05-0910

Docket #W-01303A-050405

Arizona Corporation Commission

1200 West Washington

Phoenix, AZ 85007

Re: Arizona-American Water Company

The Town of Paradise Valley has reviewed the January 16, 2006 filings by staff of the Arizona Corporation Commission and by the Residential Utility Consumer Office (RUCO) with respect to Arizona-American Water Company's ongoing rate case for water system fire flow improvements. Since the Town's perspective on the fire flow improvements apparently differs from comments submitted by RUCO, the following information is provided for your consideration in connection with the rate case.

Apparently, RUCO purports to represent consumers within the Town regarding the rate impact of the proposed water system fire flow improvements. Actually, the water system improvement plan designed to provide adequate fire flows began at the grass roots level by Town residents who were aware throughout the process that the cost of the improvements would need to be supported by the rates.

The support of the Commission staff for the fire flow improvements in the Town is very much appreciated. Although Arizona-American has already committed significant resources and made major improvements to the water system, there is a long way to go to assure a satisfactory level of fire protection throughout the water system. The Town urges Arizona-American to continue the water system improvement program as planned in order that it may be completed within the five-year time frame which was planned.

The Town government cannot, for both statutory and public policy reasons, fund water system improvements for a private utility. The Town is not a water utility. Town residents are served by three water utilities, Arizona-American, Berneil Water Company and the City of Phoenix. Each of these utilities is responsible to make the necessary improvements within their respective service area, and to not only meet public health standards, but to meet fire safety standards prescribed by the Uniform Fire Code as well.

Arizona Corporation Commission

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Fortunately, all three water utilities are moving forward with necessary improvements. Legally, the Town is not a water utility and could not spend public money on water system improvements without a vote of the people. From a public policy perspective the Town could not subsidize a private business with public money. Both A.R.S. §9-514 and the Gift Clause in the Arizona Constitution prohibit the Town from spending general fund money to build or contribute to the construction of the water system infrastructure that would be owned by Arizona-American.

From the Town's perspective each of the three water utilities serving our residents must utilize whatever mechanisms they have to fund improvements which are necessary for public safety. The Town, like other Arizona municipalities, has adopted the Uniform Fire Code which specifies minimum flow rates necessary for different types of development. A minimum fire flow of 1500 gallons per minute is the standard which all three water utilities must meet within the Town.

If representatives of the Corporation Commission wish any further information from the Town of Paradise Valley, please feel free to contact me.

Sincerely,



Thomas M. Martinsen
Town Manager

TMM/nm